

Filed: May 26, 2000

Inventor(s): Robert A. Levy

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Remarks

The undersigned attorney for Applicant appreciates the Examiner's having conducted a telephone interview relating to this application on December 17, 2003. The Skinner reference was discussed during the interview, but no agreement regarding the patentability of the claims with respect to that reference was reached. During the interview, the Applicant discussed with the Examiner possible amendments to the claims, including with respect to the term "market valuation." The Examiner asserted that incorporating elements of the market valuation into the claims would require another search, an assertion with which Applicant disagrees because the market valuation is fully disclosed in the specification and is inherent in the calculated value and analysis recited in the claims.

Claims 1-35 are currently pending in the application.

Claims 1-9, 11-15, 18, 19, 21-24 and 26-35 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Skinner et al. (U.S. Pat. No. 5,963,914) ("Skinner"). Claims 10, 17 and 20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Skinner combined with Garg et al. (U.S. Pat. No. 6,453,346) ("Garg"). Claims 16 and 25 have rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Skinner combined with Horman et al. (U.S. Pat. No. 6,275,570) ("Horman").

Independent claims 1, 11, 12, 21, 28, 30, 32 and 34 have been amended to recite, *inter alia*, a system, method, or apparatus for obtaining information about the profile of the work activities of an employee in which there is an analysis of or a market valuation calculated for the work activities including by correlating the work activities of the employee, percentages of time allocated to the work activities of the employee, and salary rates. Support for the amendments to independent claims 1, 11, 12, 21, 28, 30, 32 and 34 may be found on page 13, lines 9-15 of the specification. No new matter is added herein.

Independent claims 1, 11, 12, 21, 28, 30, 32 and 34 are patentable over Skinner because Skinner, either alone or in combination with the other references cited by the Examiner, does not show or suggest a system, method, or apparatus relating to information about the profile of the work activities of an employee in which there is an analysis of or a market valuation calculated

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for the work activities including by correlating the work activities of the employee, percentages of time allocated to the work activities of the employee, and salary rates.

Applicant maintains and reasserts his remarks contained in the Reply dated August 12, 2003, as if fully set forth herein, and further states as follows. Applicant further asserts that the remarks contained in the August 12, 2003 Reply specifically point out how the language of the claims patentably distinguishes from the references.

Skinner teaches a system that tracks time spent by a person on a remote computer. Skinner does not perform an analysis or calculate a market valuation of work activities of an employee including by correlating the work activities of the employee, percentages of time allocated to the work activities of the employee, and salary rates. Thus, Skinner does not obtain information about employee work activities as disclosed and claimed in this application. Applicant further respectfully traverses the Examiner's statement that the preamble recitation "for obtaining information about the work activities of a plurality of employees" is not accorded patentable weight, since this preamble recitation includes elements further recited throughout the claims. *See* M.P.E.P. § 2111.02. Therefore, independent claims 1, 11, 12, 21, 28, 30, 32 and 34 are patentable over Skinner, either alone or in combination with Garg and/or Horman.

Dependent claims 2-10, 13-20, 22-27, 29, 31, 33 and 35 depend directly or indirectly from independent claims 1, 11, 12, 21, 28, 30, 32 and 34, and thus contain all of the limitations of the independent claims from which they depend. Therefore, these dependent claims are patentable over Skinner, either alone or in combination with Garg and/or Horman, for at least the same reasons set forth above with respect to claims 1, 11, 12, 21, 28, 30, 32 and 34.

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Applicant submits that all of the claims are not in condition for allowance, which action is requested. Also enclosed herewith is a one-month petition of time with the required fee. Please apply any charges or credits to Deposit Account No. 50-1721.

Respectfully submitted,



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